

Immigration Remedies for Survivors of Domestic Violence

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Legal Services Programs in Connecticut

Private, not-for-profit law firms who
provide free representation for civil
legal issues.

Legal Assistance to Victims grantee since
1998 – statewide network of domestic
violence programs and legal services to
provide comprehensive safety planning
and civil legal representation.

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Legal Services and our work with immigrants

- Core services available regardless of
status.
- Represent battered immigrants in
immigration matters.

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Connecticut's Immigrant Population

- **Connecticut's immigrants are of diverse origins:** See "Immigrants in Connecticut: Labor Market Experience and Health Care Access." November, 2005. Democracy Works
 - 38% from Europe or Canada
 - 22% from Latin American countries
 - 22% from Asian countries
 - 14% from Caribbean countries
- **Many households are made up of people of mixed status**

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Reorganization of Immigration System 2003

- **DHS:** Department of Homeland Security
 - **USCIS:** United States Citizenship and Immigration Services
 - Handles applications for "benefits"
 - **ICE:** Immigration and Customs Enforcement
 - Detains and removes people inside US
 - **CBP:** Customs and Border Protection
 - Airports, border, 100 miles inside border

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Overview of types of Status

- United States Citizens [USC]
- Lawful Permanent Residents [LPR]
- "Non-Immigrants" with temporary status
 - Students
 - Certain workers
 - Tourists
- "Undocumented" immigrants

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Family Based Immigration Process

■ Basic Steps

- Relative Petition
- Application to Adjust Status
 - To become Lawful Permanent Resident, to obtain "Green Card"

■ Petitioner is the LPR or Citizen

- Initiates Process
- Controls Petition
- Can Withdraw

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Potential Immigration Remedies for Survivors of Violence

■ Petitions filed with USCIS:

- Self-petitions pursuant to the Violence Against Women Act [VAWA]
- Battered Spouse Waiver; Removal of Conditions
- U visa – for victims of certain crimes
- T visa – for victims of trafficking

■ Defenses before Immigration Judge

- VAWA Cancellation of Removal
- Asylum/Gender Asylum

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Self-Petitions

Violence Against Women Act [VAWA]
INA § 204(a)

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VAWA Self-Petition

- What is it?
 - Substitute process for family based petition
- Who qualifies?
 - Adult who was abused by USC or LPR spouse.
 - Abused step/child of USC or LPR
 - Abused, elderly parent of USC

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Benefits of Self-Petition

- Do not need cooperation of abusive United States Citizen [USC] or Lawful Permanent Resident [LPR] spouse
- Confidential Process
- Eligible for certain public benefits
- Can include children
- Work Authorization
- May pursue Lawful Permanent Residence

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VAWA Self-Petition Requirements for Battered Spouse, INA sec. 204

- Marriage to United States Citizen or Lawful Permanent Resident.
- Good faith marriage
- Battered or subjected to extreme cruelty during the marriage
- Resided together
- Good moral character

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Conditional Residency; Battered Spouse Waivers

Removing conditions without the assistance of the abusive spouse.

Conditional Residency - basics

- If couple is married for less than 2 years when "green card" is approved, immigrant spouse gets 2 year conditional residency status.
- Couple must file joint petition to remove conditions within 90 days of expiration of status.

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Termination of Conditional Residency - consequences

- Loss of right to remain in the USA
- Loss of employment authorization
- Department of Homeland Security may initiate Removal Proceedings.

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Conditional Residency – Waivers of Joint Filing

- Divorce of parties
- Battery or extreme cruelty
- Extreme hardship

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U Visas

VTPA 2000,
INA §101(a)(15)(U)

Immigration relief for victims of
certain crimes.

U visa – Congressional Findings

- Immigrants often targeted for crimes in
USA
- Immigrants must be able to report
crimes and participate in accessing
justice

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U Visa - Purpose

- To strengthen law enforcement's ability to detect, investigate and prosecute crimes; while
- Offering protection to victims "in keeping with humanitarian interests of US"

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U Visa Benefits

- Can stay in USA 4 years with U visa
- Can get employment authorization
- Can petition for permanent residency after 3 years in U status
- Can include certain relatives in petition

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U Visa Requirements

- Specific crime
- Substantial physical harm or extreme emotional abuse
- Possesses information about criminal activity
- Criminal activity occurred in U.S. or violated US law.
- Certification from government official that victim *has been, is likely to be or is being helpful* to an investigation or prosecution of criminal activity

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U Visas Law Enforcement Certification

- Police officer
- Prosecutor
- Judge
- CIS/ICE Officer
- Certain State or Federal Agency Employees

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U Visas - Crimes Covered

- | | |
|-----------------------------|-------------------------|
| ■ Rape | ■ Being held hostage |
| ■ Torture | ■ Peonage |
| ■ Trafficking | ■ Involuntary servitude |
| ■ Incest | ■ Slave trade |
| ■ Domestic violence | ■ Kidnapping |
| ■ Sexual assault | ■ Abduction |
| ■ Prostitution | ■ False Imprisonment |
| ■ Female Genital Mutilation | |

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U Visas – Crimes Covered (cont'd)

- | | |
|---------------------|---|
| ■ Blackmail | ■ Obstruction of justice |
| ■ Extortion | ■ Perjury or |
| ■ Manslaughter | |
| ■ Murder | ■ Attempt, conspiracy or solicitation to commit any of these crimes |
| ■ Felonious assault | |
| ■ Witness tampering | |

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T Visas

VTVPA of 2000

INA101(a)(15)(T)

Immigration relief for victims of
human trafficking.

T Visa Requirements

- The applicant is or has been a victim of a **"severe form of trafficking in person."**
- The applicant is **physically present** in the United States, or its territories on account of such trafficking;
- The applicant has complied with **any reasonable request for assistance in the investigation or prosecution** of acts of trafficking, or has not attained 15 years of age, and
- The applicant would **suffer extreme hardship** involving unusual and severe harm upon removal.

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"Severe Form of Trafficking in Persons" §103 of VTPA]

Definition:

"Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery."

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Where can immigrant survivors of violence get legal help?

- Connecticut's Legal Services Programs
- Referral to private attorneys through CT Chapter of American Immigration Lawyers Association [AILA] 1-800-954-0254.
- University of CT, and Yale Law Schools; Asylum and Human Rights Clinics
- Connecticut's Domestic Violence and Sexual Assault Programs for info and referral.

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Legal Services programs in Connecticut

- Greater Hartford Legal Aid, www.ghla.org
- New Haven Legal Assistance, www.nhlegal.org
- Connecticut Legal Services, www.connlegalservices.org.
- Statewide Legal Services [1-800-453-3320 provides screening and referral for the three regional programs]

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Useful links:

- ASISTA (Advanced Immigration Technical Assistance) www.ASISTAonline.org
- Immigrant Legal Resource Center, www.ilrc.org
- American Immigration Lawyer's Association, www.AILA.org
- National Immigration Project, of the National Lawyer's Guild, www.nationalimmigrationproject.org
- United States Citizenship and Immigration Services, www.uscis.gov

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